

Appl. No. : 10/810,782
Filed : March 26, 2004

REMARKS

This is in response to the Office Action mailed September 12, 2008. Claims 1-9 and 16-17 remain pending in the application after this Response.

By the Action, the Examiner indicated the rejection of Claims 1, 6, 8-11, 15 and 17 under 35 U.S.C. § 102(e) as being anticipated by Luciano, Jr. (US Publication 2003/0232638) or, in the alternative, under 35 U.S.C. § 103(a) as obvious over Luciano, Jr. in view of Beaulieu et al. (US Publication 2003/0017965). The Examiner rejected Claims 12 and 16 under 35 U.S.C. § 103(a) as being unpatentable over Luciano, Jr. or Luciano, Jr. in view of Beaulieu et al. Lastly, the Examiner rejected Claims 2-5, 7 and 13-14 under 35 U.S.C. §103(a) as being unpatentable over Luciano, Jr. and Beaulieu et al. in further view of Bennett et al. (WO 00/322386).

Independent Claim 1

The foundational premise of the Examiner's rejection is that Luciano, Jr. discloses designating player selected numbers with a first indicator and then displaying a secondary indicia with player selected numbers that were deemed to match and displaying a secondary indicia with player selected numbers that were determined not to match. While Claim 1 included the limitation of "replacing" the first indicator" with the secondary indicia, the Examiner indicated that such limitation is met by Luciano, Jr.'s "replacing the initial check mark with a shaded area and a check mark".

First, Applicant asserts that this configuration does not meet the literal language of the claim, if not the spirit of the claim. In particular, Luciano, Jr. clearly details marking player selected numbers with a check mark and then highlighting the game numbers. In the configuration disclosed

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by Luciano, Jr., the “check marks” are not replaced. Instead, the check marks remain displayed at all times as designating player selected numbers, and then game numbers are designated by highlighting. If a player number and a game number are the same, then both an original check mark and then highlighting are associated with at number.

Even assuming that the original check mark were removed and then redisplayed with highlighting for matched numbers, Luciano, Jr. does not disclose displaying a secondary indicia for non-matching game numbers. In Luciano, Jr., check marks are indicated for selected player numbers and if the player number is not matched, no secondary indicia is displayed (the check mark stays in place). Thus, Luciano, Jr., does not disclose displaying the requisite first indicator and then a secondary indicia in both instances where a player number is matched and when it is not matched.

Nonetheless, Applicant has amended Claim 1 to further define the claimed invention over Luciano, Jr. In particular, Claim 1 now recites that: (1) for player numbers that match game numbers, the first indicator is *removed* and then a match indicating secondary indicia *which does not include the first indicator* is displayed and (2) for player numbers that do not match game numbers, the first indicator is *removed* and then a non-match indicating secondary indicia *which does not include the first indicator and which is different than the match indicating secondary indicia* is displayed.

Luciano, Jr., does not disclose or suggest such a keno game. In particular, in Luciano, Jr., the original “check marks” designating player selected numbers are not removed. Further, to the extent the Examiner asserts that the check marks are removed, then Luciano, Jr.’s secondary indicia again

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include those first indicators (either a check mark and highlighting or a check mark and no highlighting), contrary to the configuration as claimed. Also, Luciano, Jr. does not disclose displaying non-match indicators which differ from the match indicating indicators (in Luciano, Jr. highlighting is associated with each game number whether or not the number matched, so that the “secondary indicators” are always the same).

The Examiner further cites Beaulieu at al. as disclosing the replacement of indicia. This is irrelevant, however, given that the prior art fails to disclose or suggest the base concept of using a first indicator to designate player selected numbers and then using entirely different secondary indicia to designate matched and non-matched player selected numbers. In particular, Luciano, Jr. only discloses indicating selected player numbers with one indicia (a check mark) and indicating selected game numbers with another indicia (highlighting). Luciano Jr. does not teach or suggest indicating selected player numbers with a first indicia or indicator and then indicating a game status outcome by secondary indicia which have an attribute indicating either a match or no match to the player.

While Beaulieu discloses that the appearance of indicia may be changed, neither it nor Luciano, Jr. discloses use of secondary indicia having attributes indicating either a match or no match in order to indicate to a player the outcome of their player selected numbers.

Dependent Claims 2-9 and 16-17

In that the prior art fails to disclose the limitations of base independent Claim 1, Applicant asserts that Claims 2-9 and 16-17 dependent thereon are allowable (and for this reason, Applicant

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has not specifically addressed the secondary grounds of rejection of these various dependent claims, such being moot in view of the allowability of Claim 1).

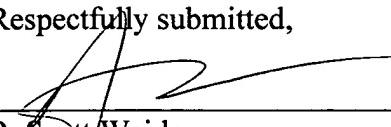
However, Applicant does assert that these various dependent claims also define patentable subject matter. For example, Claim 17 recites the additional step of designating game numbers with a secondary indicator. Luciano, Jr. does not suggest such. In particular, in combination with the base limitations of Claim 1, Claim 17 recites that player numbers are designated with a first indicator, game numbers are designated with a secondary indicator, and then secondary indicia are used to indicate player numbers which are matched or not matched. Luciano, Jr. at most discloses two indicators: check marks and highlighting. Luciano, Jr. clearly does not disclose or suggest first and second indicators and secondary indicia as claimed.

Summary

Applicant asserts that Claims 1-9 and 16-17 are in a condition for allowance and respectfully request a notice as to the same. If any matters remain outstanding, the Examiner is invited to contact the undersigned by telephone.

Respectfully submitted,

Dated: January 12, 2009 By:


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